

REMARKS/ARGUMENTS

Applicants' representatives would like to thank Examiners Yu and Padmanabhan for the courteous and helpful discussion of the issues in the present application on October 21, 2004. The above amendments and following remarks summarize and expand on the content of that discussion.

Claims 33-49 are now active in this application. Claim 33 has been amended to specify that the hydrogel particles are prepared by discharging the emulsion or dispersion of components into a cooling oil, under conditions sufficient to form droplets, with the thus formed particles being cooled in the cooling oil. The skin cosmetic composition is formed by then dispersing the hydrogel particles thus formed into an aqueous medium. This results in the hydrogel particles being substantially spherical and having significantly improved properties as compared to forming the particles by forming droplets into an aqueous solution. (see data in the specification for the examples described at pages 26-32, and particularly Table 1, page 32). The new limitation that the droplets are formed by dropping into a cooling oil, is supported by the specification at pages 26-27. Claim 35 has been amended to correct the last member of the Markush group. This amendment is supported by the specification at page 16, lines 9-14 of the specification. No new matter has been added by these amendments.

Applicants have presented the claims in a product-by-process format, requiring that the product be a product as formed by the dropping method described in the application and in new claim 33. This method provides hydrogel particles which are substantially uniform in their size and shape, as discharging the emulsion or dispersion through an orifice into an oil to form droplets would inherently do. It is important that the present particles be formed as droplets in order to provide the uniformity of appearance and shape inherent in such formation.

This provides a final skin cosmetic composition that is not only pleasing to the touch, but is also visually aesthetically pleasing, with the particles most preferably suspended in a transparent medium, giving the appearance that the particles are floating in the medium in the container.

The rejection of claim 50 has been obviated by its cancellation.

The only remaining rejection of the claims is under 35 U.S.C. 103, over Tsaur et al. This reference nowhere discloses or suggests a process that can provide the type of droplets required in the present invention. While it is true that Tsaur et al indicate that their hydrogel dispersion precursor can be used to provide “spherical, noodle shaped or in some cases irregular shaped hydrogel domains uniformly dispersed in said aqueous solution” (see column 4, lines 40-44) and purportedly disclose at Example 4 to prepare “spherical particles” by a “variant of the extrusion process described in Example 3”, there is insufficient teaching within the Tsaur et al reference to permit one of ordinary skill in the art to prepare such spherical particles without undue experimentation. The Tsaur et al reference appears to disclose only two methods for forming their particles: (1) extrusion of a noodle of the hydrogel, which when hardened is then broken apart by shear forces to provide irregular shaped particles, and (2) a co-extrusion process whereby the hydrogel precursor and an aqueous solution are simultaneously co-extruded, along with application of shear, to provide irregular shaped particles. It is noted that neither of these processes would be capable of providing the visually spherical particles provided by the present process whereby droplets are formed by dropping in a cooling oil. In particular, Tsaur et al, at the paragraph bridging columns 4 and 5, describe the preparation of their particles by injecting or coextruding the hydrogel precursor solution with an aqueous solution to form elongated soft hydrogel noodles. These prehardened soft hydrogel noodles are then broken into irregular shaped hydrogel particles using low shear mixing devices such as low speed flotation machine or a

mechanical mixer in a batch process or an in-line static mixer or in-line screen in a continuous process. These types of mechanical mixing and shearing devices cannot provide the type of droplets required in the present invention. In fact, by Tsaur et al's very own admission at column 5, lines 4-8, they are seeking irregularly shaped particles, basically prepared by ripping apart a long noodle of the hydrogel material. Accordingly this cannot suggest the present composition which contains particles having the substantially uniform shape and size that would be provided by a process as described in the claim, namely the formation of droplets by discharging the precursor emulsion or dispersion through an orifice into a cooling oil.

The co-extrusion process noted above is described in Example 3, beginning at column 14. In fact, it is a variant of this co-extrusion process that is referred to by Example 4, which purportedly makes spherical particles. It is not seen how such a co-extrusion process could provide spherical particles.

More importantly, the present claims require that the droplets be prepared by dropping the composition dropwise into a cooling oil (as opposed to an aqueous solution). Tsaur et al say nothing regarding such a cooling oil, and specifically teach at column 4, lines 36-44, that their hydrogel precursor solution is added, or injected to and mixed with an appropriate aqueous solution under conditions that make the hydrogel precursor solution become insoluble upon contact with the aqueous solution. Applicants have provided a comparison of hydrogel particles prepared by dropping into a cooling oil (the process used to prepare the present invention product), compared to hydrogel particles prepared by a modification of that process by dropping into an aqueous solution. Table 1 (page 32 of the present specification) shows the results provided by this comparison. The present product is provided in Examples I-1, I-2 and I-3 (each of which are formed from Hydrogel Particles 1, the preparation of which are described in the preceding pages), while the product prepared by

forming the hydrogel particles by dropping into an aqueous solution are shown in Comp. Ex. I-1 and Comp. Ex. I-2 (each of which are formed from Hydrogel Particles 2, the preparation of which are described in the preceding pages). As can be clearly seen, the resulting final skin cosmetic composition of the present invention (using the hydrogel particles formed by dropping into a cooling oil) provide significant improvements in one or more of the properties of Smoothness on the Skin, less Residue on the Skin, Sphericity, and Storage Stability. (Note: Example I-1 is directly comparable to Comp. Ex. I-1, Example I-2 is directly comparable to Comp. Ex. I-2 and Example I-3 is directly comparable to Comp. Ex. I-3, with the only difference in each comparison being the type of hydrogel particles used).

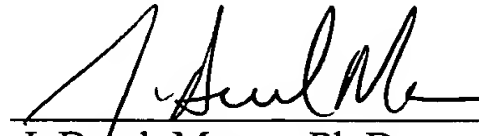
Tsaur et al cannot render the present invention obvious, as Tsaur clearly teaches that their hydrogel precursor solution must be placed into an aqueous solution in order to cause the hydrogel precursor solution to solidify. Tsaur et al neither teach nor suggest anything with respect to placing the hydrogel precursor solution into a cooling oil as required in the present invention. Further, Applicants have shown that it is this dropping of the hydrogel forming composition into a cooling oil to form the hydrogel particles, (which are then separated from the cooling oil and placed into an aqueous medium to give the final claimed product) that provides the significant improvements in feel and visual aesthetics that are important in such skin cosmetic compositions. Further Applicants have shown that this process used to prepare the hydrogel particles used in the present invention composition gives significant differences as compared to the process taught by Tsaur of forming the hydrogel particles by dropping into an aqueous solution. As such, Tsaur cannot suggest the process used to prepare the present product, and cannot suggest the present product itself, due to the significant differences shown by Applicants. Accordingly, the rejection over Tsaur et al should be withdrawn.

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Applicants submit that the application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "J. Derek Mason", is written over a horizontal line.

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